Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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86-1467

NO.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

STELLA ANNE STEMER,

Petitioner,

v.

WAYNE COUNTY DEPARTMENT OF HEALTH AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR PETITIONER

STELLA A. STEMER
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March 9, 1987

per se

QUESTIONS PRESENTED

1. Did the District Court err in dismissing the case on March 14, 1985 four days before the scheduled hearing, when there were motions on the docket, which is contrary to Rule 42 FRAP DISMISSAL in the District Court.

2. Should the reason for the "Right to Sue Letter", issued by EEOC be made available for review by the Federal Court, preventing abuse of power by the agency, which is contrary to the guide lines established for the agency's existence.

LIST OF PARTIES

The parties to the proceedings below were the petitioner Stella Anne Stemer, and the respondents the Wayne County Department of Health; and Equal Employment Opportunity Commission.

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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

STELLA ANNE STEMER,

Petitioner,

v.

WAYNE COUNTY DEPARTMENT OF
HEALTH AND EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

The petitioner, Stella Anne Stemer, who had been unable to obtain a lawyer to represent her, asked the District Court to assist her in obtaining a lawyer, but was denied, and has had to proceed per se, respectfully pray that a Writ of Certiorari be issued to review the judgement of the United States Court of Appeals for the Sixth Circuit, entered on December 11, 1986.

OPINIONS BELOW

The dismissal by U.S. District Court Judge Cohn appears in the Appendix, infra. The opinion of the court of Appeals is unreported and appears in the Appendix, infra, the opinion for publication of the Court of Appeals prior order appears in the Appendix, infra. The opinion of the Court of Appeals Motion for Reconsideration appears in the Appendix, infra.

JURISDICTION

The opinion of the Court of Appeals was filed on December 11, 1986. The petitioner filed an appeal under Title VII along with misuse of Federal Funds. The Court of Appeals agreed that the Motion for Reconsideration contained many factual allegations that were not on the record at the District Court. The federal question involved, consists of EEOC's refusal to acknowledge the many violations of Title VII and the misuse of federal funds. Also, the District

Court dismissal of the case in violation of Rule 42, FRAP. The Court of Appeals' decision of December 11, 1986, was limited. The issues ought to be, decided by this court.

STATUTES INVOLVED

Unknown to petitioner.

STATEMENT OF THE CASE

On August 21, 1984, the petitioner, Stella Anne Stemer, filed a complaint with the Equal Employment Opportunity Commission against her employer the Wayne County Department of Health, who fired her on June 21, 1984, after nineteen years of employment as a certified vision and hearing technician.

At the initial filing and the only opportunity allowed Stemer to state her case at EEOC, with the exception of telephone calls in which Stemer reiterated the facts, Stemer told her case to the EEOC representative, Ms. DeBerry on August

21, 1984. Ms. DeBerry was told the following facts:

The County terminated Stemer under the guise that she refused to pay union dues to the Wayne Out-County Hearing and Vision Technicians Association. The County did not recognize the association as a union or the women in the group as employees. The American Federation of State, County Municipal Employees Union (AFSCME) is the only bargaining union for the vision and hearing technicians in the department in which Stemer worked.

Ms. DeBerry was also told that a man and two black women who had been hired since the Association was formed, did not have to pay dues to the Association which consisted of all white women. They paid their union dues to the AFSCME union, the only recognized union by the Wayne County Department of Health for vision and hearing technicians.

Stemer was told by Dr. John Dyer in March 1984, Chicago office of the U.S. Department of Health and Human Service to file with EEOC. Dr. Dyer stated that the vision and hearing program she worked in was covered by federal funds. The federal funds were given to the State of Michigan and the County of Wayne under a Formula. The Formula for the Federal Funds included a Guide Line that anyone working in the vision and hearing program should be protected under the Merit system.

Ms. DeBerry was also told that the federal funds were used for other programs and employees, denying protection under the Formula of federal funds for Stemer and others in her class which were all white women.

Stemer informed the EEOC representative that the U.S. Attorney Leonard Gilman met with her in April 1980, when threats were made against her. Statements that she should "look for her name in

the obituary column". If she continued pursuing the misuse of federal funds and the conspiracy on the part of state agencies MERC & MESC and the County of Wayne. Gilman sent two F.B.I. agents to her home for a report. The next week the F.B.I. agent Kermit Stahr told Stemer "the State of Michigan and the County of Wayne are out to get you and you will be shown no mercy", U.S. Attorney Gilman told her that he would "keep an eye on Wayne County Corporation Counsel and the Attorney General of the State of Michigan."

Ms. DeBerry left the room several times to talk with a superior. She was told to tell Stemer it was a labor law issue. DeBerry stated they had to go by the County's letter of termination. Stemer told her it was not a labor law issue because the Association was not a union and the County did not recognize them as employees. The Association forfeited there

rights on the advice of the Wayne County Executive William Lucas' law firm, Jenkins, Nystrom, etc., and the County Executive's chief aide, Jamil Akhtar. (This fact is on the record in the Appendix filed in the U.S. Court of Appeals in August 1985.) (Appendix p. 214 to 222)

Stemer was told by Ms. DeBerry she would be assigned a case worker within a week to ten days. This did not happen. She was then told she would be assigned to a unit. This did not happen. In November, Stemer was told by Ms. Tucker of EEOC that she had attended several meetings regarding her.

Ms. Tucker told Stemer in late November 1984, that the Detroit EEOC office was directed by the Washington D.C. office to send her a "right to sue letter". No reason given except to state "alleged non-title VII violation".

Stemer filed the "right to sue letter" into the U.S. District Court per se, requesting legal counsel.

At the hearing held in the U.S. District Court on February 25, 1985, Judge Cohn recognized the Motions before the Court and informed the petitioner that she better hire one more attorney for the March 18, 1985 hearing. On March 5, 1985 the District Court sent a "Notice of Hearing" that Motions in the case would be heard on March 18, 1985 at 2:00 p.m.

Petitioner, who had been told by many attorneys that they could not become involved because they feared action by the state against them, was faced with the dilemma of trying to find one more lawyer. After the February 25, 1985 hearing, the first attorney petitioner met with was Edwin Fabre, ten days later he told her, he could not help her because of "a fear of conflict with Wayne County". On March 14, 1985,

petitioner met with attorney David Wenger, paid him a retainer fee, who said he would investigate EEOC, and postpone the Court hearing of March 18th. On March 15, 1985, petitioner received a document headed with the word DISMISSAL, dated March 14, 1985. Petitioner met with Mr. Wenger and his law clerk Ms. Ty Ancog on March 16, 1985. When Mr. Wenger looked at the DISMISSAL, he stated "it was highly irregular the way Cohn handled the case. He knows the law and I would not have expected him to handle it this way". From then on, Mr. Wenger would not return any of petitioner's calls and his law clerk suggested that petitioner file her own lawsuit, stating that she was going on a trip and Mr. Wenger would not be accessible. On April 19, 1985, petitioner again phoned Mr. Wenger's office requesting to pick up her own file of letters and documents that she had given to Mr. Wenger to review. She was told to come

to the office to get them. When she entered the waiting room, Mr. Wenger came out and stated that petitioner could not have her own personal file back until next week Wednesday or Thursday and not before. The reason for the delay became evident when petitioner picked up her file the next week and discovered that the DISMISSAL had been removed and a new court document titled ORDER was in its place with the same date. When petitioner questioned the secretary as to why the document was missing, the secretary stated there were Motions on the Docket that had to be removed in Court. In the ORDER, the judge quoted from a document that was not on the record in the District Court. The ORDER was dated the same date as the DISMISSAL.

When petitioner Motioned the court in August of 1985 for Inclusion of Documents, she was informed by the District Court office that she should not have petitioned Judge Cohn because he

was "off the case". The District Court then forwarded the Documents to the Cincinnati Court of Appeals. Judge Cohn entered an order denying motion to supplement record on appeal, after the documents had been sent to Cincinnati.

In July of 1985, petitioner went to the EEOC office for copies of her record to file in the Appendix. Petitioner was told by a clerk that the reason EEOC gave her such a hard time was because she was a "whistle blower".

REASONS FOR GRANTING WRIT

I.

The District Court erred in dismissing the case on March 14, 1985 four days before the scheduled hearing.

There were Motions on the docket for the hearing that was scheduled for March 18, 1985. Rule 42, FRAP, Dismissal in the District Court:

> If an appeal has not been docketed, the appeal may be dismissed by the district court upon the filing in that court of a stipu-

> lation for dismissal signed by all parties, or upon motion and notice by the appellant.

Judge Avern Cohn wrote a DISMISSAL four days before the hearing. Judge Cohn directed Stemer on February 25, 1985 to hire one more lawyer. She hired Attorney David Wenger as directed for the March 18, 1985 hearing. The appeal was dismissed without appellant Stemer's approval or knowledge on March 14, 1985.

Stemer gave the DISMISSAL to Attorney Wenger on March 16, 1985, Wenger said, " it was highly irregular the way Cohn handled the case, he knows the law and I would not have expected him to handle it this way."

When Stemer picked up her file from Wenger's office on April 26, 1985, she was asked to sign a statement that all her personal documents had been returned, before she signed the statement she looked in her file and noticed the Court three page document called a DISMISSAL was

missing. The attorney's secretary, Madeline Klassen, admitted to Stemer that the document was removed and replaced with a Court ORDER, stating that there were Motions on the Docket that had to be removed. (U.S. Court Appendix p. A-165)

In reading the District Court's ORDER dated March 14, 1985, filed with this petition for a Writ of Certiorari, Appendix D, Judge Cohn quotes from a document "charge of discrimination" that was not on the record in the Court. The county's copy of the document was still in EEOC's file in July 1985, Judge Cohn continued, "Furthermore, even if this court had jurisdiction, the decision of the EEOC was correct. Plaintiff did not state a violation of Title VII in her charge. The EEOC correctly concluded it had no jurisdiction to process the charge." Judge Cohn did not have a copy of the charge.

It was not filed with the Motions to the District Court.

The District Court dismissed the appeal four days before the hearing, denying petitioner an opportunity to state her case with an attorney, as directed by the Court. In the last statements in the hearing of February 25, 1985, the transcript of the hearing as reported by Herman Tappert, Court Reporter is as follows:

The COURT:	I am going to set both of those motions - what date, Mr. Quigly?
Mr. Quigly:	March 18th.
The COURT:	Those two motions will be heard March 18th. You had better get yourself a lawyer.
Ms. Stemer:	Your Honor, I have had many lawyers in the last few years.
The COURT:	You had better get one more.

The Official Court Reporter, Herman H. Tappert, certified that this was the only hearing held in the District Court in this case and forwarded the information to the U.S. Court of Appeals in Cincinnati. The information forwarded by the District Court had eliminated

EEOC from the Appeal. Stemer motioned the Court of Appeals to acknowledge that EEOC had made an appearance in the District Court. (Court of Appeals Appendix p. A-195 to A-200)

There were many errors made in the District Court, including the fact, that the District Court failed to notify the U.S. Court of Appeals, Sixth Circuit, that EEOC had made an appearance on the case in February 1985, until Stemer brought it to the attention of the U.S. Attorney General's office in Detroit.

In August 1985, Stemer was granted an extension by the U.S. Court of Appeals to Motion the District Court for Inclusion of Documents to substantiate her claim in the Court of Appeals. Stemer was informed by the District Court office, that she should not have petitioned Judge Cohn because "he was off the case." The District Court forwarded the Documents to the Sixth Circuit Court. (Appeals Appendix pages,

A-2, A-201 to A-224) Later, Judge Cohn entered an order denying motion to supplement record on appeal. (Appeals Appendix, A-2)

The Documents that Stemer had been denied in the early dismissal of her case by the District Court, are now on the record in the U.S. Court of Appeals, Sixth Circuit, the documents verify the conspiracy against her by the County of Wayne, the State of Michigan, members of the State of Michigan Attorney General's Department and the State of Michigan Courts, as well as the federal agency EEOC, members of the County Executive William Lucas' staff and the AFSCME union. (Appeals Appendix pages, A-201 to A-224)

The Court of Appeals acknowledged the many factual allegations, but denied the Reconsideration because the facts were not on the record at the District Court. The facts were not on the record in the District Court because the

Court dismissed the case in violation of FRAP Rule 42.

II.

Should the reason for the "Right to Sue Letter" issued by EEOC be made available for review by the Federal Court, preventing abuse of power by the agency which is contrary to the guide lines established for the agency's existence.

EEOC dismissed a complaint as a labor law issue when the case did not involve labor law, it was an employment issue protected under Title VII of the 1964 Civil Rights Act. This is contrary to the guide lines established for EEOC which is to take complaints, investigate and attempt to resolve the charges informally before issuing the right to sue letter.

EEOC issued a "Right to Sue Letter" form 161, which is marked with an "X" near "no jurisdic-

tion" and the agency typed, "charge alleges Non-Title VII violation". Must the Court assume the agency is infallible or should the agency be accountable for issuing the "right to sue" letter and prove to the Court that their decision was based on facts.

On July 17, 1985 Stemer had a 9:00 A.M. appointment with EEOC, to review her file for filing the Appendix to the U.S. Court of Appeals. Stemer was given her file shortly after she arrived.

Stemer had to sit for three hours after she told the EEOC clerk she wanted copies of information in the file that verified the County was never informed by EEOC that a complaint had been filed.

Stemer told the legal aide that the envelope was sent to the wrong address. A form in the EEOC file was filled out in red ink, had the correct address, name, department and was

checked that it went to the proper person. This did not happen. Instead the envelope with the charge filed by Stemer was mailed to the wrong address, misspelled name, no title or department was on the envelope.

After three hours Stemer was told to go home, there was no one available to xerox copies for her, she was told that EEOC would mail her the file.

When Stemer got the file in the mail the form with the correct mailing information was not included. The envelope Stemer requested was tampered with and EEOC blocked out the vague information on the envelope. (Court of Appeals Appendix A-240)

The notes taken by Ms. DeBerry at the first meeting were included. It verifies that Ms. DeBerry could not possibly have done the "Charge of Discrimination" it was written by a co-worker

or supervisor. There were two different sets of notes.

The United States of America agency EEOC is responsible to the government, to the Courts, to Congress and to the American citizens to be honest, investigate the charges and not cover up for the employer.

Stemer was told by the EEOC representative on July 17, 1985 after she sat for three hours for a copy of her small file that the reason she was not treated fairly by EEOC was because she was a "whistle blower".

EEOC erred in refusing to accept the case as an employment discrimination case or to look into the real reason Stemer was fired. The fact is that it is not a "labor law issue:, it is an employment issue". EEOC's handling of this case was a cover-up for the County of Wayne. Stemer was fired for refusing to pay dues to a small group of women, who were not the bargaining

agent for the vision and hearing screening jobs. The jobs belonged to the AFSCME bargaining union. The Association was not represented by a union when she was fired in June 1984. The Wayne County Department of Health's representative, Mr. Robert Kring, testified on February 9, 1979, MERC, Unfair Labor Charge, Case No. C78 K-295, p. 564, that the bargaining group for the screening (vision and hearing) program Stemer worked in for the Health Department belonged to the AFSCME bargaining group. (appendix A36)

Stemer was fired from her job in the 'twentieth century', for telling the employer, the Wayne County Department of Health that it was wrong to have women out in the field (school districts) collecting statistics (screening thousands of children's eyes and ears every year) for the Health Department, who used the statistics for federal funds. The employer admitted under oath at a MERC Representation

Case R77 A-25 through A-57, LO-1978, May 10, 1977, page 295, (appendix A238), they were reimbursed with federal funds but never paid the women who were all white any wages or fringe benefits or protected them with pension rights. The Health Department pocketed the millions of dollars they received throughout the years and when Stemer challenged the denial of her employment rights, she became a victim of conspiracy, fraud, cover-up and threats were made against her health and well-being.

Stemer was fired for not agreeing with the conspiracy, trickery and fraud of the employer who said you are not an employee, you are not entitled to the benefits, vacation days, holidays, sick days and pension rights of our employees.

EEOC claims that the Court lacks jurisdiction over the agency EEOC. The fact is that the EEOC is accountable and is responsible to all U.S.

citizens. Stemer is asking the Court to review the fact that the agency, EEOC, failed to handle the case with honesty and integrity, allowing politics to cloud the issues. The purpose of the agency is to attempt to help the person who seeks their aide in employment discrimination cases, but in this case they chose to cover-up for the employer because they did not want to open up a can of worms. EEOC was advised that Dr. John Dyer of the Chicago Office of the U.S. Health and Human Services Department, told Stemer to file with EEOC in March 1984. Stemer informed Ms. DeBerry of EEOC on August 21, 1984, that Dr. Dyer suggested Stemer should meet with Mr. Sam Johnson of the EEOC's Detroit office. She requested an opportunity to meet with Mr. Johnson but it was denied. Ms. DeBerry was told that Dr. Dyer told Stemer that the money for the program she worked in was under a FORMULA of federal funds that included Guide Lines that

should have protected her under the MERIT system. EEOC was made aware that Stemer was denied all benefits, fair wages, holidays, vacation days, pension rights, etc., all in violation of the Fair Employment Law. The people who worked in the sub-standard conditions of employment were all white women. Stemer was informed by Ms. Tucker of EEOC that she had attended several meetings regarding her. Stemer was not informed of any of the meetings. Ms. Tucker also admitted that EEOC and the County were discussing a man who was hired thirteen (13) years after Stemer for vision and hearing screening and was given all the benefits denied her throughout the years. Stemer was denied any input in the discussions or informed of the meetings.

EEOC was informed Stemer had been threatened, humiliated, and that testimony she had given at

hearings were altered, conspired against and fired.

CONCLUSION

The Court stated that it lacked jurisdiction over EEOC. The federal agency EEOC, should be made accountable to the Court, when they issue "Right to Sue Letters". In the Detroit Newspaper in September 1985, U.S. Attorney Edwin Meese, was quoted as follows, "when federal agencies fail to do their job, it places a burden on the Federal Courts." Petitioner concludes that EEOC has been allowed to continue too long without being made accountable for their actions. EEOC in this case ignored the real reason petitioner was fired to cover up for the State of Michigan and the County of Wayne who were involved in years of conspiring against petitioner.

The District Court erred in defending EEOC. The federal agency EEOC's failure to do their

job will continue to burden the Court if the Courts are denied access to EEOC's files.

The fact is that EEOC is accountable and is responsible to the U.S. citizens. This issue Stemer is asking the Court to review, is a matter of an agency, EEOC's failure to handle her case with honesty and integrity, allowing politics to cloud the issue.

This case is of the utmost importance to all American citizens, not only the petitioner, to be assured that "abuse of power" by EEOC will not continue and the Federal Courts will not be forced to "rubber-stamp", but will have the power to review handling of complaints filed with EEOC.

Respectfully submitted,

Stella Anne Stemer

Stella Anne Stemer
9160 Nathaline
Redford, MI 48239

per se

December 9, 1987

APPENDIX A

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

STELLA ANNE STEMER,	)	
	)	NO. 85-1308
Plaintiff-Appellant,	)	D.C. NO.
	)	84-CV-05917-DT
	)	
v.	)	O R D E R
	)	
	)	
WAYNE COUNTY DEPARTMENT OF HEALTH; AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
Defendants-Appellees.	)	

BEFORE:

KEITH and BOGGS, Circuit Judges; and CELEBREEZE, Senior Circuit Judge

The plaintiff moves for reconsideration of this Court's order affirming the order of the district court in this employment discrimination case. The plaintiff also moves for publication of this Court's prior order.

Under Rule 24(a)(2), Rules of the Sixth Circuit, there is a presumption in favor of publication of signed and per curiam opinions. An order is not designated for publication unless a member of the panel so requests. Because the issues in this case are not substantial, the Court finds that publication is not justified.

The plaintiff's motion for reconsideration contains many factual allegations that were not included in the complaint in the district court. Based on that complaint, the district court correctly dismissed the case.

The motion for publication is denied. the motion for reconsideration is also denied.

ENTERED BY ORDER OF THE COURT

APPENDIX B

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

STELLA ANNE STEMER,	)	
	)	NO. 85-1308
Plaintiff-Appellant,	)	D.C. NO.
	)	84-CV-05917-DT
	)	
v.	)	ORDER
	)	
	)	
WAYNE COUNTY DEPARTMENT OF HEALTH; ET AL.,	)	
	)	
Defendants-Appellees.	)	
	)	

Upon consideration of the motions of the appellant for full text publication of the order of June 3, 1986 affirming the district court and for reconsideration of said order,

It is ordered that the motions be, and they hereby are **denied.**

ENTERED BY ORDER OF THE COURT
John P. Hehman, Clerk

APPENDIX C

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

STELLA ANNE STEMER,	)	
	)	NO. 85-1308
Plaintiff-Appellant,	)	D.C. NO.
	)	84-CV-05917-DT
	)	
v.	)	ORDER
	)	
	)	
WAYNE COUNTY DEPARTMENT OF HEALTH; AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
Defendants-Appellees.	)	

BEFORE:

KEITH and BOGGS, Circuit Judges; and CELEBREEZE, Senior Circuit Judge

Stemer appeals pro se from the district court's order dismissing her employment discrimination case. This appeal has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. After an examination of the record and the briefs, this panel

agrees unanimously that oral argument is not needed. Rule 34(a), Federal Rules of Appellate Procedure.

Stemer was discharged from her job with the Department of Health when she failed to pay her union dues. She filed a charge of discrimination with the EEOC alleging that this action violated Title VII. The EEOC found that it had no jurisdiction over this case which involved only a labor law issue. It issued Stemer a right to sue letter.

Stemer then filed the present complaint against the Department of Health and the EEOC. The district court held that it lacked jurisdiction over the EEOC because there is no express or implied cause of action against the EEOC under Title VII. Ward v. EEOC, 719 F.2d 311, 313 (9th Cir. 1983), cert. denied, 466 U.S. 953 (1984); Stewart v. EEOC, 611 F.2d 679, 682 (7th Cir. 1979). See Gillis v. U.S. Dept. of H.

& H. Services, 759 F.2d 565, 574 (6th Cir. 1985). We agree with this conclusion of the district court.

The district court also held that Stemer had failed to state a claim against the Department of Health. Title VII does not prohibit all arbitrary employment practices, but is directed only at specific impermissible discriminations based on race, religion, sex, or national origin. It does not cover issues such as labor law questions. Garcia v. Gloor, 618 F.2d 264, 269 (5th Cir. 1980), cert. denied, 449 U.S. 1113 (1981). So the district court was also correct to hold that Stemer had failed to state a claim against the Department of Health.

The order of the district court is affirmed under Rule 9(d)(3), Rules of the Sixth Circuit, because the issues are not substantial and do not require oral argument.

ENTERED BY ORDER OF THE COURT

APPENDIX D

UNITED STATES COURT DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

STELLA ANNE STEMER,	)	
	)	D.C. NO.
Plaintiff-Appellant,	)	84-CV-05197-DT
	)	
	)	
v.	)	O R D E R
	)	
	)	
WAYNE COUNTY DEPARTMENT OF HEALTH; AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	
Defendants	)	
	)	

ORDER

I.

Plaintiff was employed by the Wayne County Department of Health (Wayne County) as a hearing technician. She was terminated because she refused to pay union dues as required by the collective bargaining agreement in effect between Wayne County and the union which

represented technicians. Plaintiff then filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) and Stated:

> "I believe I was discriminated against in retaliation for refusing to pay Union dues..... I refused to pay Union dues because I would have to drop all lawsuits against the Department and accept terms and conditions in violation of labor laws. I have not paid Union dues in 3 and 1/2 years. Therefore, I can only conclude that the reason I was discharged is in retaliation for filing lawsuits and refusing to pay Union dues."

The EEOC issued plaintiff a notice of right to sue, noting that it had no jurisdiction to process her charge because she alleged a non-Title VII violation. Plaintiff then filed suit in this court under Title VII against Wayne County for discharging her and against the EEOC for refusing to process her charge. She has asked to have counsel appointed for her. Both defendants have moved to dismiss.

II.

This case must be dismissed against the EEOC. Title VII confers no right of action against the enforcement agency. Gibson v. Missouri Pac. R. Co., 579 F.2d 890 (5th Cir. 1978). The courts which have considered the issue have universally held that there is no implied cause of action against the EEOC under Title VII. See, e.g., Ward v. EEOC, 719 F.2d 311 (9th Cir. 1983); Stewart v. EEOC, 611 F.2d 679 (7th Cir. 1979).

Futhermore, even if this court had jurisdiction, the decision of the EEOC was correct. Plaintiff did not state a violation of Title VII in her charge. The EEOC correctly concluded it had no jurisdiction to process the charge.

III.

This suit must also be dismissed as against Wayne County. Title VII prohibits discrimination against any individual because of that individual's race, color, religion, sex, or

national origin. 42 U.S.C. S2000 e-2. Title VII does not reach discrimination against an individual because he sued a union alleging unfair labor practices. This court has no jurisdiction to consider disputes regarding unfair labor practices. If Wayne County's and the union's activity in this case affects commerce, exclusive jurisdiction over any unfair labor practices charge lies with the National Labor Relations Board under 29 U.S.C. S160. If Wayne County's and the union's activity does not affect commerce, there are state agencies which are proper forums to present an unfair labor practices charge. Plaintiff should direct herself to those agencies.

This case is DISMISSED.

SO ORDERED.

Avern Cohn
United States District Judge

DATED: March 14, 1985
Detroit, Michigan